

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

753P0347

SENATE BILL NO. 61

Introduced by: Senators Dempster and Duenwald and Representatives Kirkeby and Van Etten

1 FOR AN ACT ENTITLED, An Act to increase the tax on alcoholic beverages, to dedicate the
2 revenue from such tax increase, to create the South Dakota Teen Court Commission, and
3 to create the South Dakota Commission on Equal Access to Our Courts.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 35-5 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 In addition to the tax imposed by § 35-5-3, a tax is imposed on wholesalers and
8 manufacturers of alcoholic beverages, including farm wineries licensed pursuant to chapter
9 35-12 and artisan distillers licensed pursuant to chapter 35-13, based upon the quantities of
10 alcoholic beverages purchased, received, imported, or manufactured, as follows:

11 (1) Malt beverages, one dollar and six cents per gallon or pro rata portion thereof;

12 (2) All wines, ciders, and diluted beverages, two dollars and fifty-six cents per gallon or
13 pro rata portion thereof; and

14 (3) All other alcoholic beverages not otherwise specified, eight dollars and fifty-four
15 cents per gallon or pro rata portion thereof.



1 The term, diluted beverage, has the same meaning as provided in § 35-5-3. The tax imposed
2 by this section shall be administered and collected in the same manner as provided in this
3 chapter for the collection of the occupational tax.

4 Section 2. That chapter 35-5 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 There is hereby created in the state treasury the alcohol abuse fund. The secretary shall
7 deposit the revenue from the tax imposed by section 1 of this Act into the alcohol abuse fund.

8 Section 3. That chapter 35-5 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 The Department of Revenue and Regulation shall distribute the revenue in the alcohol abuse
11 fund not later than November first, February first, May first, and August first of each year as
12 follows:

13 (1) Sixty-two percent of the revenue to the counties. The share of each county shall be
14 determined by the average value of the ratio of the population of such county to the
15 total population of all of the counties and the ratio of the taxable value of such county
16 to the total taxable value of all of the counties;

17 (2) Fifteen percent of the revenue to the municipalities. The share of each municipality
18 shall be determined by the ratio of the population of such municipality to the total
19 population of all the municipalities;

20 (3) Seven percent of the revenue to the Department of Social Services to defray costs
21 incurred by the state in monitoring the 24/7 sobriety program and abuse and neglect
22 cases where alcohol abuse was present in the home;

23 (4) Six percent of the revenue to the 24/7 sobriety fund established pursuant to
24 § 1-11-18, and the balance, if any, to the attorney general who may accept money

1 pursuant to § 23-3-49 for law enforcement training programs;

2 (5) Five percent of the revenue to the teen court program fund established pursuant to
3 section 7 of this Act;

4 (6) Two percent of the revenue to the South Dakota Division of Drug and Alcohol Abuse
5 which may accept money pursuant to § 34-20A-18; and

6 (7) Three percent of the revenue shall be distributed to nonprofit corporations funded
7 through the Legal Services Corporation or contracting with the nonprofit
8 corporations funded through the Legal Services Corporation, to provide legal
9 assistance to eligible poor persons. The funds provided by this subdivision shall be
10 distributed by the South Dakota Commission on Equal Access to Our Courts as
11 established pursuant to section 12 of this Act.

12 Section 4. That § 35-5-3.2 be amended to read as follows:

13 35-5-3.2. In addition to the provisions of § 35-4-49, a malt beverage manufacturer may sell
14 the malt beverage ~~such~~ that the manufacturer manufactures to the public for consumption on the
15 licensed premises. A malt beverage manufacturer who manufactures less than five thousand
16 barrels of malt beverage a year may hold on the premises where the malt beverage is
17 manufactured an on-sale license issued pursuant to subdivision 35-4-2(4) and subject to the
18 quota established in § 35-4-11 or a malt beverage retailer's license issued pursuant to
19 subdivision 35-4-2(16) or an on-sale wine license issued pursuant to subdivision 35-4-2(12).
20 The manufacturer shall pay the tax imposed under subdivision 35-5-3(1) and section 1 of this
21 Act on all malt beverages so sold. Any manufacturer who holds a malt beverage retailer's license
22 as provided in this section may also hold a malt beverage retailer's license at other locations but
23 may sell the malt beverages it manufactures only at the location where the beverages are
24 manufactured or to wholesalers licensed pursuant to this title.

1 Section 5. That § 35-5-3.3 be amended to read as follows:

2 35-5-3.3. A malt beverage manufacturer who possesses an on-sale license authorized
3 pursuant to § 35-5-3.2 may be issued a malt beverage package dealer's license issued pursuant
4 to subdivision 35-4-2(17) for ~~such~~ the premises where the malt beverage is manufactured,
5 limited to the sale of malt beverages the manufacturer manufactures. The manufacturer shall pay
6 the tax imposed under subdivision 35-5-3(1) and section 1 of this Act on all malt beverages so
7 sold.

8 Section 6. That § 35-12A-1 be amended to read as follows:

9 35-12A-1. Notwithstanding any other provision of law, any person who is at least
10 twenty-one years of age may purchase and receive wine from another state as provided in this
11 section if the wine is not in distribution in this state and the wine comes from a winery that is
12 located in a state that affords South Dakota wineries an equal reciprocal shipping privilege, or
13 a winery located in South Dakota. The person shall place an order with a licensee as defined in
14 subdivision 35-4-2(3) or (5). The licensee shall order the wine through a wholesaler licensed
15 pursuant to subdivision 35-4-2(2) and the wholesaler shall arrange the purchase of wine. The
16 licensee shall inform the purchaser of the cost of the wine, the amount of any tax that would
17 apply to the purchase pursuant to § 35-5-3 and section 1 of this Act, the amount of sales tax that
18 would apply, and the amount of charges for freight and handling. The licensee shall collect the
19 total amount due from the customer before ordering the wine through the wholesaler. After
20 receiving the order for the wine from the licensed retailer the wholesaler shall arrange for the
21 wine to be shipped directly to the licensee who placed the order for the purchaser. Wine
22 purchased pursuant to this chapter may only be delivered and received by the purchaser from
23 a licensee as defined in subdivision 35-4-2(3) or (5).

24 Section 7. That chapter 1-10 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The teen court program fund is hereby established in the Office of the State Treasurer. The
3 purpose of the program is to support the development, growth, quality, and continuation of teen
4 court programs in South Dakota.

5 Section 8. That chapter 1-10 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 There is hereby created the South Dakota Teen Court Commission. The commission shall
8 consist of seven members appointed as follows:

- 9 (1) Three members appointed by the Governor, one initially appointed for a term of one
10 year, one initially appointed for a term of two years, and one for a term of three years
11 as designated by the Governor;
- 12 (2) Two members appointed by the Chief Justice of the Supreme Court, one initially
13 appointed for a term of two years and one for a term of three years as designated by
14 the Chief Justice; and
- 15 (3) Two members appointed by the president of the State Bar of South Dakota, one
16 initially appointed for a term of one year and one for a term of three years as
17 designated by the president.

18 Thereafter, each appointment shall be for a term of three years, beginning on the first day
19 of July.

20 Section 9. That chapter 1-10 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 The South Dakota Teen Court Commission shall consider grant applications for creating
23 new teen court programs, maintaining existing teen court programs, funding the South Dakota
24 Teen Court Association, and awarding other grants as are consistent with the promotion,

development, and enhancement of teen court programs.

Section 10. That chapter 1-10 be amended by adding thereto a NEW SECTION to read as follows:

The South Dakota Teen Court Commission shall award grants as provided in sections 7 to 9, inclusive, of this Act and publicize the availability of and procedures for obtaining such grants.

Section 11. That chapter 1-10 be amended by adding thereto a NEW SECTION to read as follows:

The South Dakota Teen Court Commission shall submit an annual report to the state treasurer not later than October first of each year. The annual report shall detail the name and location of organizations receiving grant awards. The report shall also contain the amount and duration of the grant awards, their purpose, and the administrative costs associated with each grant award.

Section 12. There is hereby created the South Dakota Commission on Equal Access to Our Courts. The commission shall consist of seven members appointed as follows:

(1) Three members by the Governor, one initially appointed for a term of one year, one initially appointed for a term of two years, and one for a term of three years as designated by the Governor. The Governor shall appoint members who are not lawyers;

(2) Two members appointed by the Chief Justice of the Supreme Court, one initially appointed for a term of two years and one for a term of three years as designated by the Chief Justice. The Chief Justice shall appoint members who are judges or lawyers; and

(3) Two members appointed by the president of the State Bar of South Dakota, one

1 initially appointed for a term of one year and one for a term of three years as
2 designated by the president. The president shall appoint members who are lawyers.

3 Thereafter, each appointment shall be for a term of three years, beginning on the first day
4 of July.

5 The commission shall consider grant applications from nonprofit entities funded by the
6 Legal Services Corporation or by nonprofit entities contracting with nonprofit entities funded
7 by the Legal Services Corporation for delivery of legal services to eligible poor persons.